

## HOW TO ENROLL A CHILD LIVING WITH SOMEONE OTHER THAN THEIR PARENT

August 2022

If a child is living with you and not with their parent, they have the right to attend school where you live if certain conditions are met.<sup>1</sup> If the child is in foster care, they have the right to “immediate enrollment” in school without submitting any enrollment documents.<sup>2</sup>

### Special Considerations

During the pandemic, nearly all districts began offering “online enrollment,” and some districts will continue to use this option during this school year. Several districts may continue to offer virtual learning for some students, particularly students with disabilities for the 2022-2023 school year. In addition, under a newly enacted law, Act 66, some students with disabilities who aged out of school last school year are permitted to remain in school and repeat a grade this school year. While the timeline for selecting this option has passed on August 1st, some local educational agencies are extending the deadline for students with disabilities selecting to remain in school, repeat a year, or permitting students with disabilities who aged out at 21 to remain in school during the 2022-2023 school year. Contact your school district or charter school to learn more.

In addition, a new law called Act 1 of 2022 (24 P.S. § 13-1331.1) went into effect during the 2021-2022 school year and applies to students who are experiencing homelessness, in foster care, or involved in the juvenile justice system who changed schools at least once during a single school year. The law provides alternative and expanded pathways to help students graduate on time. A recently adopted amendment to Act 1 allows eligible students who attended school during the 2021-2022 school year to request a credit assessment, credit waiver, and development of a Graduation Plan to determine eligibility to receive a diploma that would be retroactive to last school year. To learn more, see ELC’s [fact sheet on Act 1](#).

### HOW DO I ENROLL A CHILD IF I HAVE LEGAL CUSTODY?

- 1) Consult your school district or charter school website for information regarding “registration” or “enrollment”
- 2) Go to the school or central registration office in the school district where you live.
- 3) Bring with you:
  - a. Documents that show that you live in the school district (“residency documents”)
  - b. The court order or other document (e.g., will) which gives you custody
  - c. Documents that show the child’s age (this does not need to be a birth certificate)
  - d. Documents that show the child has been immunized. If you do not have a record of the child’s shots, tell the school district to call the former school or a doctor who has the child’s records.

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- 4) Fill out a “sworn statement” (“Parent Registration” or “Act 26” form) about the child’s discipline history, which the school district will give to you. Even though the school may ask for the child’s entire discipline history, it’s OK if you do not know it. Ultimately, you only need to say whether the child is currently expelled for possessing a weapon. You must also share whether the child has ever been expelled based on a conviction or adjudication of delinquency, occurring on or after January 3, 2021, for a sexual assault offense committed upon another student in the same school.<sup>3</sup>
- 5) Ask the school secretary to request the child’s education records from their former school. The child’s former school must send the records to the new school within ten business days.

If you do not speak English as your primary language and you have a limited ability to read, speak, write, or understand English, you have the right to receive interpretation and translation services provided by the school.<sup>4</sup>

**NOTE:** If you are seeking to enroll a child who is in foster care or experiencing homelessness, these children are entitled to immediate enrollment even if they do not have required enrollment documents. For a child in foster care, an agency may provide its request on letterhead.

### HOW DO I ENROLL A CHILD IF I DO NOT HAVE LEGAL CUSTODY?

You are not required to have legal custody to enroll a child who is living with you in school.<sup>5</sup> In addition to the steps above, you will need to give the school district a completed copy of the “1302 Form,” attached at the end of this fact sheet. You must sign this document in front of a notary, which the school district can help you do. Remember, this is a sworn statement, so you must fill out the form truthfully. For the student to enroll in the district where you live, the form must state that:

- 1) The child lives with you all year, including weekends and summer,
- 2) You will make sure that the child attends school and will be responsible for other school requirements, AND
- 3) You are supporting the child as if they were your child, without receiving payments from the child’s parents. You can receive SSI, TANF, pre-adoptive or adoptive support, support from parents in the military, health insurance, or child support payments and still be supporting the child on your own.

The district can ask you for proof that the statements on the form are true, though they should be flexible and consider what information you are able to give them.

*You can prove you are a resident by providing one or more of these documents where you are listed at an address in the school district:*

- 1) Utility bill
- 2) Lease
- 3) Driver’s license
- 4) Car registration
- 5) Tax bill
- 6) Credit card bill
- 7) Form that shows you are enrolled in a government program

*You can prove you support the child as your own with:*

- 1) Receipts for food, clothes, or medical bills for the child
- 2) Papers that show you took the child as a dependent on your taxes
- 3) Papers that show that the child is covered by your health insurance

## AFTER I COMPLETE THESE STEPS, HOW SOON MUST THE DISTRICT ENROLL THE CHILD?

The law says that the child should be enrolled the next day and must be enrolled **within five business days** of the school receiving all enrollment documents.<sup>6</sup> If the child has not been notified that they can start attending school within five business days, call the district's registration office and ask them why the child has not been enrolled.

**If the school district does not allow the child to start after five business days, file a complaint with the Pennsylvania Department of Education.** See Education Law Center's fact sheet on the [Enrollment Complaint Process](#). You can also call the Department at: 717-787-4860 or 717-783-6746.

## WHAT ELSE DO I NEED TO KNOW BEFORE THE CHILD STARTS SCHOOL?

We recommend talking to an administrator or counselor at the new school about:

- **The child's special education needs.** This is particularly important for students with disabilities who plan to graduate this year or who turned 21 and were enrolled in school for the 2021-2022 school year and are remaining in school for an additional year. If the child has a disability, make sure the school has a copy of the IEP. The school must follow the old IEP until you agree on a new IEP with the new school. Request an IEP team meeting with the new school as soon as possible. The school cannot delay the child's start of school because they are waiting to receive the IEP.
- **The child's need for accommodations in school.** Share any "Section 504 Accommodations Plan" your child may have for a chronic illness or other disability.
- **The credits required for graduation and credits transferred from the child's previous school.** Make sure the school gives the child credit for all partial and full credits earned and courses the student has already taken.
- **Point of Contact:** Many schools have mentorship programs. In addition, students in grades K-12 who are experiencing homelessness, in foster care, or involved in the juvenile justice system and have changed schools at least once during a single school year are entitled to receive a Point of Contact under a new law known as [Act 1 of 2022 \(24 P.S. § 13-1331.1\)](#). Talk to your school if you think a child may be eligible. This law ensures that students can fully participate in school—including engaging in school-sponsored extracurricular activities; fines and fees are waived, and high school students have expanded pathways to graduate on-time.
- **Language instruction program.** If the child is an English learner and is not proficient in speaking, reading, understanding, and writing English, talk to the school about the child's needs, prior language instruction, and the language instruction program at the new school.
- **Options for tutoring, vocational classes, and extracurricular activities,** even if the child is starting school midway through the school year. This can be very important for the child to connect to a new school.

## OTHER QUESTIONS ABOUT ENROLLING A STUDENT WHO IS LIVING WITH YOU

### CAN A SCHOOL DISTRICT ASK YOU ABOUT WHY THE CHILD IS LIVING WITH YOU?

No. You do not have to answer questions about the child's family situation, why the child is living with you, or why the child is not living with their parents.

### DO YOU NEED LEGAL CUSTODY FROM A COURT TO ENROLL THE CHILD IN SCHOOL?

No. If you have a custody order, the school district must admit the child to school. If you do not have a custody order, you can still enroll the child using the 1302 Form and the child has the same legal right to attend school. If you use a 1302 Form, the school cannot require you to show that you have a custody order.

### CAN MY SCHOOL REQUIRE AN AFFIDAVIT FROM A BIOLOGICAL PARENT OR THAT THE CHILD'S PARENT ENROLL THE CHILD IN SCHOOL?

No. These are not requirements under the law.<sup>7</sup>

### CAN THE SCHOOL DISTRICT ASK YOU TO PROVE WHERE YOU LIVE?

Yes, but the school district should let you prove where you live in a way that is easiest for you. The Pennsylvania Department of Education instructs districts to accept any of the following that show you live at an address within the school district: gas, electric, or phone bills; lease for an apartment in the school district; government papers; car registration; or a paper signed by you in front of a notary that says where you and the child lives ("affidavit").<sup>8</sup>

### CAN THE SCHOOL DISTRICT ASK YOU TO PROVE THE CHILD'S AGE?

Yes, but they can only require that you bring in one of the following: birth certificate, passport, baptism certificate, paper from a parent or relative signed in front of a notary, or records from an old school. Any of these will work – the school cannot require a copy of the birth certificate.

### CAN THE SCHOOL DISTRICT DENY ENROLLMENT BECAUSE THE CHILD WAS DISCIPLINED BY THE FORMER SCHOOL?

No. The new school district cannot "honor" the previous school district's discipline and deny or delay a child's enrollment based on information in the discipline records. One exception is if the child is currently expelled for possessing a weapon – then the new school district must still enroll the student but can place the child in an alternative program. Another exception is if the child transfers to a new school during or after an expulsion based on a conviction or adjudication of delinquency for sexual assault - in which case, the new school district must enroll the student but may place the student in an alternative education program.<sup>9</sup>

### WHAT CAN'T THE SCHOOL DISTRICT ASK YOU TO PROVIDE?

A school district can never ask for your Social Security number or card or the child's Social Security number or card, immigration papers or status, doctor's or dentist's records (including mental health evaluations), or photo ID.<sup>10</sup>

## IF A CHILD HAS A GRADUATION EQUIVALENCY DIPLOMA (GED), CAN THE CHILD STILL ENROLL IN SCHOOL AND WORK TOWARDS A HIGH SCHOOL DIPLOMA?

Yes. A child has the right to go to school in Pennsylvania until the end of the school term when they turn 21 or until they graduate with a regular high school diploma (whichever comes first), even if they already have a GED.<sup>11</sup> This is true for all students, not only students with disabilities.

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The Education Law Center-PA (ELC) is a nonprofit, legal advocacy organization with offices in Philadelphia and Pittsburgh, dedicated to ensuring that all children in Pennsylvania have access to a quality public education. Through legal representation, impact litigation, community engagement, and policy advocacy, ELC advances the rights of underserved children, including children living in poverty, children of color, children in the foster care and juvenile justice systems, children with disabilities, multilingual learners, LGBTQ students, and children experiencing homelessness.

ELC's publications provide a general statement of the law. However, each situation is different. If questions remain about how the law applies to a particular situation, contact ELC's Helpline for information and advice – visit [www.elc-pa.org/contact](http://www.elc-pa.org/contact) or call 215-238-6970 (Eastern and Central PA) or 412-258-2120 (Western PA) – or contact another attorney of your choice.

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<sup>1</sup> Basic Education Circular, *Enrollment of Students - 24 P.S. §13-1301 - §13-1306*, (July 1, 2022); Fact Sheet: *Information on the Rights of All Children to Enroll in School*, Civil Rights Division of the U.S. Dep't of Justice and Office of Civil Rights of the U.S. Dep't of Ed, available at:

<https://www.justice.gov/sites/default/files/crt/legacy/2014/05/08/plyerfact.pdf>

<sup>2</sup> See Every Students Succeeds Act, 20 U.S.C. § 1703(f).

<sup>3</sup> 24 P.S. § 13-1318.1(g).

<sup>4</sup> Executive Order 13166, *Improving Access for Persons with Limited-English Proficiency* (2000); *Ensuring English Learner Students Can Participate Meaningfully and Equally in Educational Programs*, U.S. Department of Justice & U.S. Department of Education, Office of Civil Rights, 1, available at <https://www2.ed.gov/about/offices/list/ocr/docs/dcl-factsheet-el-students-201501.pdf>; *Information for Limited English Proficient (LEP) Parents and Guardians and for Schools and School Districts that Communicate with Them*, U.S. Department of Justice & U.S. Department of Education, Office of Civil Rights, available at <https://www2.ed.gov/about/offices/list/ocr/docs/dcl-factsheet-lep-parents-201501.pdf>.

<sup>5</sup> 24 P.S. § 13-1302(a)(2)

<sup>6</sup> 22 Pa. Code § 11.11(b)

<sup>7</sup> 24 P.S. 13-1302.

<sup>8</sup> See Basic Education Circular on Enrollment of Students at <https://www.education.pa.gov/Policy-Funding/BECS/Purdons/Pages/EnrollmentStudents.aspx>

<sup>9</sup> 24 P.S. § 13-1318.1(f).

<sup>10</sup> *Id. See Plyler v. Doe*, 457 U.S. 202 (1982) (schools may not inquire about a child's immigration status).

<sup>11</sup> 22 Pa. Code § 11.12.

**SWORN STATEMENT BY RESIDENT UNDER § 13-1302**  
**TO BE COMPLETED BY RESIDENT ONLY**

Instructions: Please complete the following statement. If the potential student is living, or will be living, in a household with more than one resident adult who will assume responsibility for the student, all such adult residents must complete and sign this statement.

This is a legal document. You may ask to see a copy of 24 P.S. § 13-1302 prior to signing this document and consult with an attorney if you have any questions or do not understand any portion of this document.

1. Your Name: \_\_\_\_\_

Home Address: \_\_\_\_\_

Home Phone: \_\_\_\_\_ Cell or Work Phone: \_\_\_\_\_

2. Child's Full Name: \_\_\_\_\_

Child's Birth Date: \_\_\_\_\_ Grade: \_\_\_\_\_

Name & Address of Last School Attended:  
\_\_\_\_\_  
\_\_\_\_\_

Date child began / will begin to reside in your home: \_\_\_\_\_

3. I live in the \_\_\_\_\_ School District and the child lives with me. Yes  No

4. Are you supporting this child without personal compensation or gain? Yes  No

5. Will you assume all personal obligations related to school requirements for this child that may include providing for required immunizations, uniforms, fees/fines, citations/fines for truancy, attending parent-teacher conferences, or attending meetings/hearings concerning discipline?  
Yes  No

6. Do you intend to keep and support the child continuously and not merely through the school term? Yes  No

*Through my notarized signature, I/We understand that the School District, pursuant to the guidelines issued by the Department of Education and their own written polity, may require other reasonable information to be submitted to confirm this sworn statement.*

Signed by resident(s) and notarized

Per 24 P.S. § 13-1302, a person who knowingly provides false information in the above statement for the purpose of enrolling a child in a school district for which the child is not eligible commits a summary offense and shall, upon conviction for such a violation, be sentenced to pay a fine of no more than three hundred dollars (\$300) for the benefit of the school district in which the person resides or to perform up to two hundred forty (240) hours of community service, or both. In addition, the person shall pay all court costs and shall be liable to the school district for an amount equal to the cost of tuition calculated in accordance with § 2561 during the period of enrollment.

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Home Address: \_\_\_\_\_

Home Phone: \_\_\_\_\_ Cell or Work Phone: \_\_\_\_\_

2. Child's Full Name: \_\_\_\_\_

Child's Birth Date: \_\_\_\_\_ Grade: \_\_\_\_\_

Name & Address of Last School Attended:  
\_\_\_\_\_  
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